IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

CRL.A.No. 588 of 2002()

CC.1016/2001 of JUDL.MAGISTRATE OF FIRST CLASS-II, MANANTHAVADY

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APPELLANT: COMPLAINANT

K.M.KHADER, S/O.MUHAMMED,
KALATHINGAL HOUSE, P.O.PALLIKKUNNE,
KOTTATHARA VILLAGE, VYTHIRI TALUK,
WAYANAD DISTRICT.

BY ADV. SRI.KALEESWARAM RAJ

RESPONDENTS: ACCUSED

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1. SUBAIDA, W/O.MUHAMMED,
KAITHAPPALLI HUSE, MUTTIL P.O.,
VYTHIRI TALUK, WAYANAD DISTRICT.

2. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI.O.V.MANIPRASAD

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 27/06/2007, THE COURT ON 26/06/2007 DELIVERED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.A.No.588 of 2002

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Dated this the 26th day of June, 2007

J U D G M E N T

The appellant is the complainant in C.C.No.1016/2001 in the file of the Judicial Magistrate of First Class, Mananthavady, the proceedings initiated under Section 138 of the Negotiable Instruments Act. The accused was acquitted under Section 256 (1) of the Code of Criminal Procedure. It is submitted that the lapse was occasioned on account of the wrong noting of the posting date.

In the circumstances, the order of acquittal is set aside. The court below is directed to permit the appellant/complainant to further pursue the matter and dispose of the case on merits. The appellant shall appear before the court below on 30-7-2007. The court below shall issue fresh summons to the accused.

The appeal is allowed.

K.R.UDAYABHANU,
Judge

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K.R.UDAYABHANU, J.

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Crl.A.No.588 of 2002

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J U D G M E N T

26th June, 2007